

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 UNITED STATES OF AMERICA,
10 Plaintiff,
11 v.
12 DYLAN CORRAL,
13 Defendant.

CASE NO. CR22-0048-JCC
ORDER

15 This matter comes before the Court on Defendant's objections (Dkt. No. 138) to the
16 Report and Recommendation ("R&R") of the Honorable Theresa L. Fricke, United States
17 Magistrate Judge (Dkt. Nos. 122).¹ In the R&R, Judge Fricke recommends that the Court decline
18 to rule on Defendant's motion to substitute counsel (Dkt. No. 112) and instead order that
19 Defendant undergo another competency evaluation. (*See* Dkt. No. 122 at 9–10.) Having duly
20 considered Defendant's objection, along with the relevant record, the Court hereby ADOPTS
21 Judge Fricke's R&R (Dkt. No. 122) and OVERRULES Defendant's objection (Dkt. No. 138) for
22 the reasons explained herein.

23 In March 2022, a grand jury indicted Defendant with two counts of Mailing Threatening
24 Communications. (Dkt. No. 1.) On September 21, 2022, the Court ordered that Defendant

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26 ¹ The unredacted version of Judge Fricke's R&R, which is presently maintained under seal, is
available at Docket Number 123.

1 undergo a competency evaluation pursuant to 18 U.S.C. §§ 4241(b), 4247 (b)–(c). (See Dkt. No.
2 17.) Based on the results of that evaluation,² along with Judge Fricke’s findings from a June 5,
3 2023 hearing, the Court found Defendant competent to stand trial. (Dkt. No. 86.)

4 On October 10, 2023, Defendant again appeared before Judge Fricke, this time in support
5 of his motion to replace counsel. (See Dkt. No. 121.) During the *in-camera* portion of that
6 hearing, Judge Fricke concluded there is a bona fide doubt as to Defendant’s present competency
7 to stand trial. (Dkt. No. 122 at 8–9.) As such, she recommended that Defendant again undergo a
8 competency examination in accordance with 18 U.S.C. § 4241(a). (See generally Dkt. No. 123.)
9 Defendant takes issue with Judge Fricke’s factual findings, along with her legal analysis. (See
10 generally Dkt. No. 138.)

11 This Court performs a *de novo* review of those portions of an R&R to which a party
12 properly objects. 28 U.S.C. § 636(b)(1); *see also U.S. v. Rivera-Guerrero*, 377 F.3d 1064, 1070
13 (9th Cir. 2004) (articulating standard of review for purposes of competency issues). Here, the
14 Court has closely reviewed both an audio recording and transcript of the October 10, 2023
15 hearing. (See Dkt. No. 134.) Based on that review, the Court independently finds itself with a
16 bona fide doubt as to Defendant’s competence to stand trial. Therefore, Defendant’s competency
17 must be reexamined. *See Anderson v. Gipson*, 902 F.3d 1126, 1133 (9th Cir. 2018).

18 Accordingly, the Court OVERRULES Defendant’s objection (Dkt. No. 138), ADOPTS
19 Judge Fricke’s R&R (Dkt. No. 122), STAYS consideration of Defendant’s motion to appoint
20 new counsel (Dkt. No. 112), and ORDERS the following pursuant to 18 U.S.C. §§ 4241(a) and
21 4247(b):

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25 ² Defendant declined to participate with the psychologist in the evaluation process. (See Dkt. No.
26 43-1 at 1.) As a result, the ultimate findings were based, in part, on past medical records. (*Id.* at
5.) Judge Fricke later determined that those records were incomplete. (See Dkt. No. 137-1 at 6.)

- 1 1. Defendant shall be committed to the custody of the Attorney General for a period
2 not to exceed 30 days, and be examined during that time by a psychiatrist and/or
3 psychologist chosen by the Attorney General who shall conduct a competency
4 examination to attempt to determine if Defendant is able to understand the nature
5 and consequences of the proceedings against him and if he is able to assist in his
6 defense.
- 7 2. The examining psychiatrist and/or psychologist shall prepare an examination
8 report pursuant to 18 U.S.C. § 4247(c), file that report with the Court, and provide
9 copies to Defendant's counsel and the United States. The report shall include the
10 following:
 - 11 a. Defendant's history and present symptoms.
 - 12 b. A description of the psychiatric, psychological and medical tests that were
13 employed and their results.
 - 14 c. The examiner's findings.
 - 15 d. The examiner's opinion as to diagnosis, prognosis, and whether Defendant
16 is suffering from a mental disease or defect rendering him mentally
17 incompetent to understand the nature and consequences of the proceedings
18 against him, or to assist properly in his defense, as defined in 18 U.S.C.
19 section 4241(a).

20 To ensure the examination and report are complete, Defense Counsel is ORDERED to
21 coordinate the production of Defendant's medical and mental health records, including those not
22 previously considered (such as from California Health Care Facility Stockton). (See Dkt. Nos.
23 137 at 2, 137-1 at 5–6.) The Clerk is DIRECTED to issue subpoenas as Defense Counsel deems
24 necessary to gather this information.

25 DATED this 20th day of November 2023.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE